

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF IMPLEMENTATION)	ADMINISTRATIVE ORDER
OF THE COURT'S E-EXHIBIT POLICY)	No. 2004-013
_____)	

By authority vested in me as Presiding Judge for the Superior Court of Arizona in Maricopa County, Arizona, and in recognition of the need to implement a court policy governing the management and control of electronically formatted exhibits to be filed and utilized in court proceedings,

IT IS ORDERED adopting the attached Policy of the Superior Court for Maricopa County Regarding the Use of Electronic Exhibits, also known as E-Exhibits, which policy shall become effective immediately.

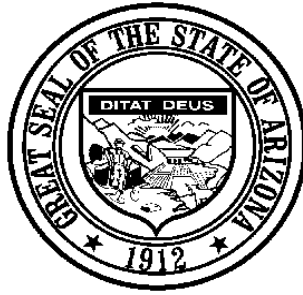
IT IS FURTHER ORDERED vacating the E-Exhibit Policy issued by the Clerk of the Superior Court for Maricopa County signed on September 17, 2003, which stated an effective date of October 6, 2003.

DATED this 30th day of January, 2004.

Honorable Colin F. Campbell
Presiding Judge

Original: Filed with Clerk of the Court

Copies: Hon. Barbara R. Mundell, Associate Presiding Judge
Marcus Reinkensmeyer, Trial Courts Administrator
Michael K. Jeanes, Clerk of the Court
Hon. Mark W. Armstrong, Family Presiding Judge
Hon. Margaret H. Downie, Civil Presiding Judge
Hon. Eddward Ballinger, Jr., Criminal Presiding Judge
Hon. Emmet J. Ronan, Juvenile Presiding Judge
Hon. Paul A. Katz, Tax Presiding Judge
Hon. M. Jean Hoag, Southeast Presiding Judge
Hon. Colleen McNally, Northwest Presiding Judge



SUPERIOR COURT OF ARIZONA FOR MARICOPA COUNTY

E-EXHIBIT POLICY

PURPOSE

Pursuant to the powers granted to the Presiding Judge under Rule 92, Rules of the Supreme Court, the purpose of this Policy is to provide supplemental direction for the introduction, admission and management of electronic exhibits in court proceedings. The Clerk of the Court shall implement this policy in exercising its responsibility to control and maintain custody of exhibits in accordance with applicable Rules of the Supreme Court, Rules of Criminal Procedure, Records and Evidence, and Local Rules of Practice for Maricopa County.

DEFINITION OF E-EXHIBIT

An "e-Exhibit" (e - ig-'zi-bit) is defined as: (1) any document or object marked for identification or introduced as evidence during a court hearing or proceeding utilizing electronic devices; *also*: implemented on or by means of a computer <electronic files> <electronic images>; (2) e-exhibits may include files contained on a CD-ROM disk, DVD disk, audiotape, videotape or other electronic means of recording and preserving documents or images; (3) e-exhibits may include documents that have been electronically filed and docketed with the court.

POLICY

(A) Control of E-Exhibits. Counsel and/or parties who plan to present electronic exhibits in a court proceeding are required to present those e-exhibits to the courtroom clerk no less than two (2) business days prior to the court hearing or trial. The electronic exhibits submitted to the clerk at this point will be designated as the original version of the e-exhibit. The Court will not accept any other version of the exhibit (i.e. printed or paper copies) if e-exhibits have been submitted, unless otherwise ordered by the Court. This original version of the e-exhibit will be the exhibit that remains as the official permanent court record.

(1) Delivery Format. E-exhibits may be delivered to the Clerk of the Court in the following formats:

- a. **CD-ROM**
- b. **DVD**
- c. **Audiotape**
- d. **Videotape**
- e. **Electronically filed documents**
- f. **Such other format as may be approved by the assigned judge**

(2) Marking Exhibits. The courtroom clerk will not mark e-exhibits with a traditional exhibit tag. The Court and counsel shall refer to the official Exhibit Worksheet in order to identify exhibits and their status (i.e., accepted in evidence by the Court).

(3) Courtroom Presentation. After submitting the official version of the e-exhibits to the courtroom clerk, counsel and/or parties may use duplicates of these e-exhibits with the permission of the Court. It is assumed that counsel avow the duplicates of e-exhibits utilized during a hearing or trial are identical to those e-exhibits provided to the clerk. The judicial officer should settle any discrepancies or disputes as to the authenticity of these e-exhibit copies. The party seeking to offer an e-exhibit into evidence shall provide the means of displaying or playing the e-exhibit in court if the subject proceeding is not being conducted in a designated e-courtroom.

(4) Jury Deliberation. The jury will only be able to view those e-exhibits presented to and controlled by the courtroom clerk as the official version of the e-exhibit for purposes of deliberation. Additionally, the courtroom clerk will only provide the jury those e-exhibits that were received in evidence by the judicial officer. *NOTE:* a "final" CD containing copies of only those exhibits from the original CD that were admitted into evidence may be provided to the jury for viewing during its deliberations.

(5) Preservation of e-Exhibits presented into evidence. The Clerk of the Court shall preserve and store all e-exhibits presented into evidence during any proceeding unless otherwise ordered to be released by the Court.

(6) Temporary Courtroom Releases. Original e-Exhibits that have been received into evidence shall only be released by order of the court. The Clerk may provide an exact duplicate of any e-Exhibit to any party to a proceeding as may be requested. If the purpose of obtaining a duplicate of an original e-Exhibit is to redact, or otherwise alter the e-exhibit, counsel must present a new CD-ROM to the courtroom clerk and have the altered exhibit marked and identified as a new e-Exhibit.

(7) Sealing e-Exhibits. Due to the electronic nature of e-exhibits, it is difficult for the Clerk to identify a set policy, therefore, the Clerk of the Court will work with the Court

and counsel on a case-by-case basis to determine the best practice in making sure that an e-exhibit is sealed.

(8) Court of Appeals. Those e-exhibits in the custody of the Clerk of the Court and maintained as the official court record will be the exhibits that are presented to the Court of Appeals in the case, unless otherwise ordered by the trial court or appellate court.

(B) Required File Formats. The Court will require counsel and/or parties to adhere to the same file format standards adopted for the purposes of electronic filing. These standards are identified in the "Arizona Code Of Judicial Administration, Part 1: Judicial Branch Administration, Chapter 5: Automation, Section 1-506: Filing and Management of Electronic Court Documents, Section D". The below file-format requirements closely resemble those identified for e-filing and are only modified for the purposes of relating them to electronic exhibits.

(1) Authenticity. All materials presented and identified as e-exhibits shall be preserved. The content of the original material shall be exactly duplicated on the e-exhibit as a true and complete copy, and shall not be altered in any way from the original non-electronic materials. The e-exhibit, when displayed or printed, shall closely resemble the original without any material alteration.

(2) Non-Proprietary File Formats. E-exhibits shall be in a format that provides for browser accessibility and no material alteration to content or appearance. If the e-exhibit does not satisfy the required file format indicated in this section, the Clerk of the Court will be unable to manage that exhibit and must return it. E-exhibits shall be formatted in either:

(a) Imaged Files. All paper documents or graphic formats (pictures or maps) imaged to present as an e-exhibit shall be in a non-proprietary file format (for example, TIFF, GIF, .PDF, or JPEG) and shall comply with ACJA §1-504. If a paper document exceeds one (1) page, the document shall be imaged in a format that creates one (1) electronic file for the entire document (i.e. multi-page TIFF or .PDF).

(b) Converted Files. All electronic files or graphic formats (Microsoft Word Documents or Portable Network Graphic files) converted to a non-editable file format in order to present as an e-exhibit shall be converted to a non-proprietary file format (for example, TIFF, GIF, .PDF, or JPEG) and shall comply with ACJA §1-504. If an electronic text document exceeds one (1) page, the document shall be converted in a format that creates one (1) electronic file for the entire document (i.e. multi-page TIFF or .PDF).

(c) Non-Text Files. Other multimedia files (video or audio files) shall adhere to established industry standards and shall be in a non-proprietary format (MPEG, AVI, and WAV).

(3) Navigation. Hyperlinks, bookmarks and other similar navigational functions shall only refer to other parts within the same file.

(C) File Naming Convention. The Court will require counsel and/or parties to adhere to the specific file-naming format in presenting e-exhibits to the courtroom clerk. This is necessary in order for the courtroom clerk to properly mark and identify each exhibit for the permanent court record. File names should adhere to the following naming convention:

AAA_PartyName_#.ext

Where the "PartyName" is equal to a logical portion of the party name in the case caption. For example:

Smith	John Smith
Motorola	Motorola
American	American Insurance

Where the # is equal to the Exhibit Number, and where the "ext" is equal to the file format.

Consider the following examples:

DEF_Smith_3.tiff

This is defendant Smith's Exhibit number 3, and is a tagged image file format (TIFF). Or:

PLF_American_22.pdf

This is Plaintiff American Insurance's exhibit number 22, and is a portable document format, or Adobe Acrobat file.

(D) Storage of Exhibits. The Clerk of the Court shall maintain control of the e-exhibits in a case until the matter is finally concluded, or the time for appeal has run, unless otherwise ordered to be released by the Court. The exhibits shall be stored in the same electronic format that the e-exhibits were delivered

(1) Exhibit Processing. The Clerk's Exhibits Department or courtroom clerks may need to treat e-exhibits differently than traditional exhibits in many aspects of processing. The following sections describe instances in which e-exhibits will need special processing.

- (a) Verification.** The exhibit worksheet will need to be compared to each e-exhibit to verify the description on the worksheet is accurate. In order to verify exhibit descriptions, the exhibit clerk shall insert the CD-ROM into their PC and view each electronic exhibit and compare it to the description on the worksheet. Due to the inability of the courtroom clerk to electronically mark e-exhibits, the exhibit clerk shall presume the typical tag information on the exhibit worksheet is accurate (i.e. offering party, date in evidence).
- (b) Storage Location.** The exhibit clerk shall indicate a storage location for all exhibits on the CD-ROM as the location that the CD-ROM is placed (i.e. Area 1, Envelope Shelf).
- (c) Viewing.** If a member of the public or court requests a viewing of e-exhibits, they shall be treated in the same manner as security exhibits. This will require the viewer to sign in and remain in the supervisor's office while viewing. The Clerk's office will provide a computer for viewing purposes. At no time shall the original of an e-exhibit be released to non-court staff or clerk employees, unless otherwise ordered by the Court.
- (d) Check In/Check Out.** If court personnel would like to check out an e-exhibit contained on a CD-ROM, the exhibits department will check out the entire CD-ROM to their possession. If a courtroom clerk is checking out e-exhibits with the intention of remarking them, they should be advised that section (D)(2) requires that duplicates be used and marked as new exhibits.
- (e) Court-Ordered Releases from Storage.** The exhibit department shall process e-exhibit court-ordered releases in compliance with Clerk of Court policy 35.15. If a party seeks the permanent or temporary release of any e-exhibit contained on a CD-ROM they shall file a motion with the Court for the release of all e-exhibits on the CD-ROM. The exhibit department will release the CD-ROM containing all e-exhibits only if the order specifies that all e-exhibits on the CD-ROM be released.

(2) e-Exhibits and Multiple Hearings. In the event that an exhibit is requested for check-out so that it may be re-used as an e-exhibit in a subsequent hearing or trial (for the same case/party, or otherwise), the courtroom clerk will first request that counsel utilize and provide a duplicate of the e-exhibit to be marked as a new exhibit. The Clerk of the Court will NOT remark e-exhibits. If counsel is unable to secure a copy of the e-exhibit, they may make arrangements with the

courtroom clerk to secure a copy from the Exhibit Department to be marked and used as a new exhibit.

(E) Retention Schedule. E-exhibits will follow the same retention schedule as prescribed for paper exhibits.

(F) Public Access.

The public is allowed access to e-exhibits with the viewing privileges outlined in section (D)(1)(c). Duplicates of original e-exhibits may be requested by parties, attorneys or members of the public, unless otherwise ordered to be restricted from view and access by the court.